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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/708,083	11/08/2000	Toshiki Kindo	43890-463	9891
20277	7590	09/22/2004	EXAMINER	
MCDERMOTT WILL & EMERY LLP 600 13TH STREET, N.W. WASHINGTON, DC 20005-3096				ROBINSON, GRETA L.
ART UNIT		PAPER NUMBER		
		2177		

DATE MAILED: 09/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	y
	09/708,083	KINDO ET AL.	
	Examiner	Art Unit	
	Greta L. Robinson	2177	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 26 May 2004.

2a) This action is **FINAL**.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-14 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-14 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_

**DETAILED ACTION**

1. Claims 1-14 are pending in the present application.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 1 and 4 the limitation, "assigning a priority to a keyword, said keyword operative as a tag, which is tagged to an image" [note independent claims 1 lines 3-4; and claim 4 lines 3-4] is vague and unclear. The disclosure appears to associate the tagging of keywords with a signal as opposed to a priority as claimed. The disclosure appears to make reference to tagging a keyword to the electronic image signal as opposed to assigning a priority; the user inputs a retrieval request signal in menu entry section 4 in order to search a desired image see page 3 lines 25-27. The disclosure appears to associate the tagging of keywords with a signal as opposed to a priority as claimed.

Claims 2-3 and 5-14 are rejected based on dependency.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. ~~Claims 1-8, 13 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Jain et al. US Patent 5,913,205.~~

Regarding claims 1-8, 13 and 14 **Jain et al.** teaches a method of “retrieving an image from at least one of an information-storage medium and an information network” [note: col. 9 lines 11-37; figure 1A]. Jain et al. teaches “assigning a priority to a keyword, said keyword operative as a tag ... searching for the image ... and displaying the image, based on the degree of importance of the image” [note: col.11 lines 9-28].

The most important aspect of the Query Window 200 are sliders to control the relative importance or weights for the visual and textual aspects of the query. There are sliders to indicate the importance of visual query attributes such as keywords [col.11 lines 9-28].

***Allowable Subject Matter***

6. Claims 9-12 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

7. Applicant's arguments filed May 25, 2004 have been fully considered but they are not persuasive. In the response Applicant argued (1) that the slider in prior art reference Jain et al. only changes the importance of the attributes of keywords, but does not change a degree of importance for each keyword; and (2) Jain does not disclose assigning a priority to a keyword, said keyword operative as a tag" which is tagged to an image to calculate a degree of importance.

In response to Applicant's arguments above, the examiner respectfully maintains the rejection. Note, in response to argument (1), Jain et al. also uses the sliders to indicate the importance of keywords see column 11 lines 18-23. Also Applicant's argument "change the degree of importance for each keyword" is not a limitation that appears in the claim. Regarding argument (2), Jain et al's ability to indicate the importance of a keyword through the use of sliders accounts for the process of assigning a priority to a keyword or tagging the keyword, sliders are used as a form of weights for the particular attribute which can consist of a keyword.

Applicant's amendment and response overcomes the rejection cited under 35 USC 112 first paragraph.

***Conclusion***

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Greta L. Robinson whose telephone number is (703) 308-7565. The examiner can normally be reached on Mon.-Fri. 9:30AM-6:00PM.

Note effective October 22, 2004 the examiner can be reached at the following new telephone number (571)272-4118.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John E. Breene can be reached on (703) 305-9790. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



GRETA ROBINSON  
PRIMARY EXAMINER

Greta Robinson  
Primary Examiner  
September 20, 2004